

Michigan and the U.S. Nuclear Regulatory Commission Agreement State Program  
Agreement State Advisory Committee (ASAC)  
Library of Michigan - Lake Superior Room  
May 6, 2009

MEETING SUMMARY

1. Introductions

Thor Strong, Chief of the Radiological Protection Section, Department of Environmental Quality (DEQ), welcomed the participants and had the participants introduce themselves.

He noted that the focus of this meeting was to discuss the draft Part D, "Standards for Protection Against Radiation," and the draft Part B, "Registration of X-Ray Machines," that had been sent to the committee members for their review.

2. Update on Agreement State Efforts

Darryl Horton, Director of the Health Facilities and Services Division, Department of Community Health (DCH), said that the Agreement State initiative has been presented to the DCH Deputy Director who expressed his support. Mr. Horton listed the benefits for licensees and the state if Michigan were to become an Agreement State.

Mr. Strong said that the draft legislation has become a low priority for DCH management because of the economic climate of the state and other priorities within DCH. If stakeholders wish to see the Agreement State concept move forward, they should consider having their organizations contact the governor's office and the legislature. A lively discussion ensued. Some meeting participants said that their organizations are also experiencing a budget crisis and may be unwilling to push an interim fee to the governor and legislature. It was noted that the proposed FY2009 annual fee in 10 CFR 171 for licensees is a large increase from FY2008 and may assuage naysayers. The state can provide the regulatory oversight at a lower cost to the licensees than the U.S. Nuclear Regulatory Commission (NRC) currently charges licensees. The DEQ was requested to provide a graph showing NRC fees over time, an estimate of the number of years after Michigan becomes an Agreement State for facilities to recover the interim fee, and a compilation of "talking points" for stakeholders to use in discussions with their management.

3. General Approach to Rules Revision

Michigan's draft rules follow the format of the Conference of Radiation Control Program Directors' "Suggested State Regulations" (SSRs). The SSRs are compared with NRC regulations and corresponding rules of other Agreement States. Boxes under a draft rule provide rationale for the proposed change and indicate where a new requirement goes beyond the scope of the NRC regulation.

The Michigan Legislative Services Bureau has "A Manual of Style and Procedures" to be used when drafting administrative rules. The wording of the draft rules has been modified to meet the requirements in this manual and other "plain language in government" principles.

4. Discussion of Draft Rules

Staff and committee members discussed the draft rules. Some significant discussions centered on the following rules:

#### Part D, "Standards for Protection Against Radiation"

- Rule D.1902, "Posting Requirements." Some attendees supported the new subrule f requiring posting of access openings whereby an individual could enter a pipe system and traverse within it until they enter an area where a radioactive gauge is attached to the system.
- Rule D.1903, "Exceptions to Posting Requirements." The current 10 CFR 20.1903 regulation specifies "teletherapy" as the treatment modality that is exempt from posting caution signs under specific circumstances. Attendees discussed the possibilities of adding remote afterloader units, gamma stereotactic radiosurgery units, and radiation therapy machines operating at energies of less than 50 kilovolts, between 50 and 500 kilovolts, and greater than 500 kilovolts.
- Rules D.1904, "Labeling Containers of Radioactive Material," and D.1904a, "Labeling Radiation Machines. Attendees agreed that separating the radioactive material and the radiation machine labeling requirements was logical.
- Rule D.1906, "Procedure for Receiving and Opening Packages." Subrule d requires a licensee to immediately notify the final delivery carrier and the department when monitoring determines that the removable radioactive surface contamination or the external radiation levels exceed the applicable limits. Attendees suggested that "immediately" be replaced by "within four hours" or another reasonable time limit.
- Rule D.2003, "Disposal by Release into Sanitary Sewerage." The meaning of the term "readily disperses in water" was questioned.
- Rule D.2005, "Disposal of Specific Wastes." A proposed subrule, which the NRC has approved for several states, allows a licensee to hold radioactive material with a physical half-life of 120 days or less for decay in storage. Attendees suggested that the 120-day half-life time limit be removed.
- Rule D.2006, "Transfer for Disposal and Manifests." One subrule has the state regulating waste generators, waste collectors, waste processors, and disposal facility operators. Since some of these persons are out-of-state, how can the state regulate them?
- Rule D.2104, "Determination and Records of Prior Occupational Dose." Subrule b and portions of subrule e that relate to planned special exposures should be moved to rule D.2105, "Records of Planned Special Exposures."
- Rule D.2104, "Determination and Records of Prior Occupational Dose." Subrule d requires the individual to sign their prior occupational dose history. Attendees said that no one currently does this and suggested this requirement be removed.
- Rule D.2110, "Form of Records." Discussion revolved around how a record could be kept - original, copy, electronic copy, microform, etc. and what should be included in the rule.

The discussion on Part D ended after Rule D.2111 on line 737 of the April 21, 2009 redline strikethrough draft.

## Part B, "Registration of Radiation Machines"

- Rule B.2 "Definitions." Some attendees made suggestions to improve the definition of "controlled area" and "uncontrolled area." Since the terms "controlled area" and "uncontrolled area" are only used in subrule d of Rule B.4, "Shielding Plan Review," it was suggested to move the wording of the definitions into that subrule that discusses shielding design goals.
- Rule B.2 "Definitions." Some attendees thought the proposed language used in the definition of "Facility" was confusing. Use of "vehicle" and "at a single postal address" made the definition unclear as it was written. A suggestion was made to divide the rule into subrules to make it easier to understand.
- Rule B.3, "Exemptions." The term "kV" will be changed to "kilovolts".
- Rule B.X, "Responsibility for Compliance with Rules." The merits of using "radiation protection supervisor" instead of "radiation safety officer" were discussed.
- Rule B.4, "Shielding Plan Review." It was suggested that we allow for submittal of plans review information on a form "equivalent" to the departmental form. It was also suggested that we specify which form by using the form name or number.
- Rule B.4, "Shielding Plan Review." What constitutes "routine use in one location" as used in subrule a was discussed - one machine used in many rooms, several machines rotated through and used in one room, etc.
- Rule B.4, "Shielding Plan Review." Attendees discussed the possibility of adding to or changing the list of uses in subrule a which are specifically exempted from submittal of a shielding plan review. Suggested additions included HDR and mini c-arms.
- Rule B.4, "Shielding Plan Review." The merits of always requiring instead of occasionally requiring a qualified health physicist or qualified medical physicist to determine a facility's shielding requirements before submission to the department (subrule b) was mentioned.
- Rule B.4, "Shielding Plan Review." Subrule e requires a facility to keep on hand for inspection by the department a scale drawing of the room containing a stationary x-ray machine and areas adjacent to that room. The drawing has to show either the type and thickness of materials of each protective barrier or the results of a radiation survey at the operator's barrier and pertinent points outside the room. Attendees discussed if the same person who designed the shielding should be allowed to perform the radiation survey. A "grandfather" clause was also suggested exempting units installed prior to this new rule taking effect.
- Rule B.4, "Shielding Plan Review." Attendees recommended removing the list of clinical services covered under the department's "Certificate of Need" program.

The discussion on Part B ended after Rule B.4 on line 147 of the April 9, 2009 redline strikethrough draft.

## 5. General Comments and Next Steps

- Attendees were polled if they were willing to meet in about a month to finish the discussion on Parts B and D. Attendees were willing to do so. Thor Strong will send attendees an E-mail with some possible dates and times for the next meeting.
- Staff will draft a Meeting Summary and send to the ASAC.
- Staff will prepare and send a graph showing NRC fees over time, an estimate of the number of years after Michigan becomes an Agreement State for facilities to recover the interim fee, and a compilation of “talking points” for stakeholders to use in discussions with their management.
- Staff will consider the comments received during today’s discussion and begin to prepare new drafts of Parts B and D. The new drafts won’t be sent until after the next ASAC meeting.
- Bruce Matkovich said that DCH will be working on new rules specific to computed tomography. Since these rules are needed quickly, Bruce hoped that ASAC members would be willing to review the draft rules and offer their advice. DCH hopes to have draft rules to the State Office of Administrative Hearings and Rules by the end of this year.

### ATTENDEES:

### COMMITTEE MEMBERS ATTENDING:

Cheryl Schultz, Beaumont Hospitals  
John Merrill, Consumers Energy  
James Weldy, The Dow Chemical Company  
Jason Stoops, G2 Consulting Group  
Alan Jackson, Henry Ford Health Systems  
Thomas Kumpuris, Medical Physics Consultants  
Thomas Killingsworth, Michigan Department of Transportation  
Peter Grivins, Michigan State University  
Ray Carlson, Radiological Physics Service  
Vince McCormick, Radiological Physics Service  
Jeff Colvin, St. John Health  
Ralph Lieto, St. Joseph Mercy Health  
Bruce Hasselquist, Spectrum Health  
Dennis Palmieri, University of Michigan  
Mark Driscoll, University of Michigan

### STAFF:

Darryl Horton, DCH  
Bruce Matkovich, DCH  
Don Parry, DCH  
John Ferris, DCH  
Tom Owens, DCH  
Thor Strong, DEQ  
Robert Skowronek, DEQ  
T.R. Wentworth, DEQ